

REMARKS

Claim Status

Applicants thank the Examiner for the consideration given to the present application. Claims 1-15 are pending in the present application, no amendments are made herein. No additional claims fee is believed to be due.

The Obviousness Double-Patenting Rejections

Claims 7-9, and 13 have been rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 8-15 and 22 of commonly assigned U.S. Patent No. 6,827,854 B2. Claims 1-15 have been provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 4-10 and 12-13 of commonly assigned U.S. Patent Application Serial No. 10/705,174. And Claims 1-15 have been provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-4, 8-13, 17-21, 23-24, and 28-33 of commonly assigned U.S. Patent Application Serial No. 10/464,210. Applicants respectfully traverse this rejection because the claims of the present invention are patentably distinct from the claims of cited patent applications.

However, to simplify the issues in the present application, Applicants concurrently submit with this response the appropriate Terminal Disclaimer over the one US Patent and the two copending applications. In submitting this Terminal Disclaimer, Applicants state for the record that this Disclaimer is not an admission of obviousness in view of the cited U.S. application. Quad Env'tl. Corp. v. Union San. Dist., 20 USPQ2d 1392 (Fed. Cir. 1991).

Applicants therefore respectfully request withdrawal of the obviousness-double patenting rejections.

Rejections Under 35 USC §103(a)

The claims of the present application are rejected under 35 USC §103 as follows:

Claims 1, 2, 5 and 14-15 stand rejected under 35 USC §103(a) as being unpatentable over Levy, US Patent No. 6,241,893 B1 in view of Tremblay et al., US Patent No. 6,660,166 B2.

Claims 7-11 and 13 stand rejected under 35 USC §103(a) as being unpatentable over Beauman et al., US Patent No. 4,396,512 in view of Levy.

Claims 3-4 stand rejected under 35 USC §103(a) as being unpatentable over Levy, in view of Tremblay et al., further in view of Beauman et al.

Claim 6 stands rejected under 35 USC §103(a) as being unpatentable over Levy, in view of Tremblay et al., further in view of Denkewicz et al., US Patent No. 5,772,896.

Claim 12 stands rejected under 35 USC §103(a) as being unpatentable over Beauman et al., in view of Levy, further in view of Denkewicz et al.

Applicants traverse these rejections.

The present invention relates to filter, filter material, and kits containing these filters and filter materials. The filters have a housing with an inlet and an outlet, and a filter material within the housing. The filter material is formed at least in part from a plurality of mesoporous activated carbon filter particles, that are coated entirely or partially with a silver or a silver containing material. Silver particles may be added to the mesoporous activated carbon filter particles in place of, or in addition to the silver coating materials. The mesoporous activated carbon filter particles may optionally be coated entirely or partially with a cationic polymer as well. The mesoporosity of the carbon particles provides superior filtering attributes and removes very small particles, such as, bacteria and viruses. The presence of silver further enhances the small particle removal or deactivation capabilities of the mesoporous carbon. The mesoporous activated carbon particles are not taught or suggested in the prior art, and as such, the present claims are not obvious over the cited references.

The Levy reference is used as the primary reference to reject claims 1-6 and 14-15, and it is the secondary reference for the remaining claims. The Examiner relies on Levy for the teaching of mesoporous activated carbon. That reliance is unfounded. Levy teaches a bi-component filter containing zeolite and activated carbon, see for example the Abstract and the Background of the Invention at Column 8 lines 40-51. The zeolite is a synthetic material, see claim 1, The definition of a zeolite, its formula and method of making can be found beginning at Column 2, line 49 and carrying over to Column 3 line 10. The activated carbon taught in Levy is a conventional, known carbon material, see Column 6, lines 34-44. The Levy reference fails to teach or suggest mesoporous activated carbon particles of the present invention. And the Examiner does not assert that any of the other references teach or suggest mesoporous activated carbon particles. As such, this key limitation of each and every claim of the present application is not taught or suggested in the prior art, and therefore, the Examiner has failed to establish a *prima facie* case of obviousness, and the present rejections should be withdrawn.

More specifically, the Examiner cites first to Column 11, lines 53-58 of Levy, for the teaching of mesoporous activated carbon particles. But what this section teaches is particle size, not particle porosity. Those skilled in the art will appreciate that these are two entirely different, and largely unrelated measurements. The Examiner then cites to Column 17, lines 23-25 for additional teachings of mesoporous activated carbon particles. Again, this reliance is technically unsupported. This passage clearly refers to zeolites only (see line 22). The teachings of Levy continually distinguish between activated carbon and zeolite, so those skilled in the art would not be motivated to take the teachings of one particle and apply it to the other. If that were the case, the invention of Levy would not require zeolite. Thus, one need look no further than Levy to appreciate that mesoporous activated carbon particles are not taught or suggested in the prior art.

Once again, Each of the claims of the present invention require mesoporous activated carbon particles the Examiner. Levy, and only Levy, is relied upon by the Examiner for the teaching of mesoporous activated carbon particles. But Levy does not teach or suggest this. On the contrary, Levy requires a sytehtic particle, quite different than activated carbon, to achieve its desired filtering properties. As suc, there is no teaching or suggestion in the prior art relied upon for the rejection of the present claims of mesoporous activated carbon particles. Accordingly, the present rejections under 35 USC §103(a) must be withdrawn.

Conclusion

In light of the above remarks, it is requested that the Examiner reconsider and withdraw the rejections of claims 1-14 under 35 USC §103(a). Early and favorable action in the case is respectfully requested.

Respectfully submitted,

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